

2007 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB40)

Received: **06/15/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Kava**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Employ Pub - collective bargain**

Extra Copies:

Submit via email: **NO**

Pre Topic:

LFB:.....Kava -

Topic:

Restore QEO

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 06/15/2007	wjackson 06/18/2007		_____			
/1			rschluet 06/18/2007	_____	sbasford 06/18/2007		

FE Sent For:

<END>

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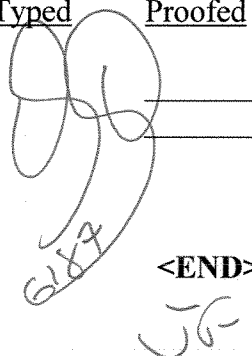
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/?

chanaman

1 wLj 6/18



Handwritten signature and initials, including "6/18" and "JG".

FE Sent For:

<END>

2007

Date (time)
needed

Today

LRB b 0371/1

BUDGET SUPERAMENDMENT

[FOR SENATE SUPER]

cmH: Wlj:

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**SENATE AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1
TO 2007 SENATE BILL 40**

>>FOR SENATE DEMOCRATIC SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page , line :

#. Page , line :

#. Page , line :

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#. Page , line :

#. Page , line :

BILL

a list of seven names submitted by WERC. Under current law, an arbitrator or arbitration panel must adopt the final offer of one of the parties on all disputed issues, which is then incorporated into the collective bargaining agreement.

However, under current law, this process does not apply to a dispute over economic issues involving a collective bargaining unit consisting of school district professional employees if WERC determines, subsequent to an investigation, that the employer has submitted a qualified economic offer (QEO). Under current law, a QEO consists of a proposal to maintain the percentage contribution by the employer to the employees' existing fringe benefit costs and the employees' existing fringe benefits and to provide for an annual average salary increase having a cost to the employer at least equal to 2.1 percent of the existing total compensation and fringe benefit costs for the employees in the collective bargaining unit plus any fringe benefit savings. Fringe benefit savings is that amount, if any, by which 1.7 percent of the total compensation and fringe benefit costs for all municipal employees in a collective bargaining unit for any 12-month period covered by a proposed collective bargaining agreement exceeds the increased cost required to maintain the percentage contribution by the municipal employer to the municipal employees' existing fringe benefit costs and to maintain all fringe benefits provided to the municipal employees.

This bill eliminates the QEO exception from the compulsory, final, and binding arbitration process.

Under current law, school district professional employees are required to be placed in a collective bargaining unit that is separate from the units of other school district employees. This bill eliminates this requirement.

Finally, the bill eliminates a 3.8 percent cap imposed on salary and fringe benefit annual cost increases for all nonrepresented professional school district employees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 111.70 (1) (b) of the statutes is amended to read:

2 111.70 (1) (b) "Collective bargaining unit" means ~~a~~ the unit consisting of
3 municipal employees who are school district professional employees or of municipal
4 employees who are not school district professional employees that is determined by
5 the commission to be appropriate for the purpose of collective bargaining.

6 SECTION 111.70 (1) (dm) of the statutes is repealed.

BILL

1 SECTION 3 111.70 (1) (fm) of the statutes is repealed.

2 SECTION 4 111.70 (1) (nc) of the statutes is repealed.

3 SECTION 5 111.70 (4) (cm) 5s. of the statutes is repealed.

4 SECTION 6 111.70 (4) (cm) 6. a. of the statutes is amended to read:

5 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
6 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~
7 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable
8 period of negotiation and after mediation by the commission under subd. 3. and other
9 settlement procedures, if any, established by the parties have been exhausted, and
10 the parties are deadlocked with respect to any dispute between them over wages,
11 hours and conditions of employment to be included in a new collective bargaining
12 agreement, either party, or the parties jointly, may petition the commission, in
13 writing, to initiate compulsory, final and binding arbitration, as provided in this
14 paragraph. At the time the petition is filed, the petitioning party shall submit in
15 writing to the other party and the commission its preliminary final offer containing
16 its latest proposals on all issues in dispute. Within 14 calendar days after the date
17 of that submission, the other party shall submit in writing its preliminary final offer
18 on all disputed issues to the petitioning party and the commission. If a petition is
19 filed jointly, both parties shall exchange their preliminary final offers in writing and
20 submit copies to the commission at the time the petition is filed.

21 SECTION 7 111.70 (4) (cm) 6. am. of the statutes is amended to read:

22 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
23 commission shall make an investigation, with or without a formal hearing, to
24 determine whether arbitration should be commenced. If in determining whether an
25 impasse exists the commission finds that the procedures set forth in this paragraph

✓ # Page 1228 Line 170
after that line insert

BILL**SECTION 7**

1 have not been complied with and such compliance would tend to result in a
2 settlement, it may order such compliance before ordering arbitration. The validity
3 of any arbitration award or collective bargaining agreement shall not be affected by
4 failure to comply with such procedures. Prior to the close of the investigation each
5 party shall submit in writing to the commission its single final offer containing its
6 final proposals on all issues in dispute that are subject to interest arbitration under
7 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
8 ~~applies.~~ If a party fails to submit a single, ultimate final offer, the commission shall
9 close the investigation based on the last written position of the party. ~~The municipal~~
10 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
11 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
12 bargaining, except that a permissive subject of bargaining may be included by a
13 party if the other party does not object and shall then be treated as a mandatory
14 subject. No later than such time, the parties shall also submit to the commission a
15 stipulation, in writing, with respect to all matters which are agreed upon for
16 inclusion in the new or amended collective bargaining agreement. The commission,
17 after receiving a report from its investigator and determining that arbitration should
18 be commenced, shall issue an order requiring arbitration and immediately submit
19 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
20 alternately strike names until a single name is left, who shall be appointed as
21 arbitrator. The petitioning party shall notify the commission in writing of the
22 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
23 formally appoint the arbitrator and submit to him or her the final offers of the
24 parties. The final offers shall be considered public documents and shall be available
25 from the commission. In lieu of a single arbitrator and upon request of both parties,

BILL

1 the commission shall appoint a tripartite arbitration panel consisting of one member
2 selected by each of the parties and a neutral person designated by the commission
3 who shall serve as a chairperson. An arbitration panel has the same powers and
4 duties as provided in this section for any other appointed arbitrator, and all
5 arbitration decisions by such panel shall be determined by majority vote. In lieu of
6 selection of the arbitrator by the parties and upon request of both parties, the
7 commission shall establish a procedure for randomly selecting names of arbitrators.
8 Under the procedure, the commission shall submit a list of 7 arbitrators to the
9 parties. Each party shall strike one name from the list. From the remaining 5
10 names, the commission shall randomly appoint an arbitrator. Unless both parties
11 to an arbitration proceeding otherwise agree in writing, every individual whose
12 name is submitted by the commission for appointment as an arbitrator shall be a
13 resident of this state at the time of submission and every individual who is
14 designated as an arbitration panel chairperson shall be a resident of this state at the
15 time of designation.

16 **SECTION 8** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
17 renumbered 111.70 (4) (cm) 8m. and amended to read:

18 111.70 (4) (cm) 8m. 'Term of agreement; reopening of negotiations.' Except for
19 the initial collective bargaining agreement between the parties and, except as the
20 parties otherwise agree, every collective bargaining agreement covering municipal
21 employees subject to this paragraph ~~other than school district professional~~
22 ~~employees shall be for a term of 2 years. No, but in no case may a~~ collective
23 bargaining agreement for any collective bargaining unit consisting of municipal
24 ~~employees subject to this paragraph other than school district professional~~
25 ~~employees shall be for a term exceeding 3 years. e. No arbitration award may contain~~

BILL**SECTION 8**

1 a provision for reopening of negotiations during the term of a collective bargaining
2 agreement, unless both parties agree to such a provision. The requirement for
3 agreement by both parties does not apply to a provision for reopening of negotiations
4 with respect to any portion of an agreement that is declared invalid by a court or
5 administrative agency or rendered invalid by the enactment of a law or promulgation
6 of a federal regulation.

7 **SECTION 9.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

8 **SECTION 10.** 111.70 (4) (cm) 8p. of the statutes is repealed.

9 **SECTION 11.** 111.70 (4) (cm) 8s. of the statutes is repealed.

10 **SECTION 12.** 111.70 (4) (cn) of the statutes is repealed.

11 **SECTION 13.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

12 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
13 bargaining unit for the purpose of collective bargaining and shall whenever possible,
14 unless otherwise required under this subchapter, avoid fragmentation by
15 maintaining as few collective bargaining units as practicable in keeping with the size
16 of the total municipal work force. In making such a determination, the commission
17 may decide whether, in a particular case, the municipal employees in the same or
18 several departments, divisions, institutions, crafts, professions, or other
19 occupational groupings constitute a collective bargaining unit. Before making its
20 determination, the commission may provide an opportunity for the municipal
21 employees concerned to determine, by secret ballot, whether or not they desire to be
22 established as a separate collective bargaining unit. ~~The commission shall not~~
23 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
24 ~~collective bargaining unit if the group includes both municipal employees who are~~
25 ~~school district professional employees and municipal employees who are not school~~

BILL

1 ~~district professional employees.~~ The commission shall not decide, however, that any
2 other group of municipal employees constitutes an appropriate collective bargaining
3 unit if the group includes both professional employees and nonprofessional
4 employees, unless a majority of the professional employees vote for inclusion in the
5 unit. The commission shall not decide that any group of municipal employees
6 constitutes an appropriate collective bargaining unit if the group includes both craft
7 employees and noncraft employees unless a majority of the craft employees vote for
8 inclusion in the unit. The commission shall place the professional employees who are
9 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
10 a separate collective bargaining unit from a unit that includes any other professional
11 employees whenever at least 30% of those professional employees request an election
12 to be held to determine that issue and a majority of the professional employees at the
13 charter school who cast votes in the election decide to be represented in a separate
14 collective bargaining unit. Any vote taken under this subsection shall be by secret
15 ballot.

16 ~~SECTION 14.~~ 118.245 of the statutes is repealed.

17 ~~SECTION 15. Initial applicability.~~

18 (1) QUALIFIED ECONOMIC OFFERS. The treatment of section 111.70 (1) (b), (dm),
19 (fm), and (nc) and (4) (cm) 5s., 6. a. and am., 8m. a., b., and c., 8p., and 8s., (cn), and
20 (d) 2. a. of the statutes first applies to petitions for arbitration that relate to collective
21 bargaining agreements that cover periods beginning on or after July 1, 2007, and
22 that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act,
23 on the effective date of this subsection.

24 (END)

✓ # Page 1237 line 50 after that line insert
✓ # Page 1656, line 10: after that line insert:



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0371/1
CMH:wlj:rs

LFB:.....Kava - Restore QEO

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

**SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 40**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1228, line 9: after that line insert:

3 **"SECTION 2662.** 111.70 (1) (b) of the statutes is amended to read:

4 111.70 (1) (b) "Collective bargaining unit" means ~~a- the unit consisting of~~
5 ~~municipal employees who are school district professional employees or of municipal~~
6 ~~employees who are not school district professional employees~~ that is determined by
7 the commission to be appropriate for the purpose of collective bargaining.

8 **SECTION 2663.** 111.70 (1) (dm) of the statutes is repealed.

9 **SECTION 2664.** 111.70 (1) (fm) of the statutes is repealed."

10 **2.** Page 1228, line 17: after that line insert:

1 **"SECTION 2666.** 111.70 (1) (nc) of the statutes is repealed.

2 **SECTION 2668.** 111.70 (4) (cm) 5s. of the statutes is repealed.

3 **SECTION 2669.** 111.70 (4) (cm) 6. a. of the statutes is amended to read:

4 111.70 (4) (cm) 6. a. If in any collective bargaining unit a dispute relating to one
5 or more issues, ~~qualifying for interest arbitration under subd. 5s. in a collective~~
6 ~~bargaining unit to which subd. 5s. applies,~~ has not been settled after a reasonable
7 period of negotiation and after mediation by the commission under subd. 3. and other
8 settlement procedures, if any, established by the parties have been exhausted, and
9 the parties are deadlocked with respect to any dispute between them over wages,
10 hours and conditions of employment to be included in a new collective bargaining
11 agreement, either party, or the parties jointly, may petition the commission, in
12 writing, to initiate compulsory, final and binding arbitration, as provided in this
13 paragraph. At the time the petition is filed, the petitioning party shall submit in
14 writing to the other party and the commission its preliminary final offer containing
15 its latest proposals on all issues in dispute. Within 14 calendar days after the date
16 of that submission, the other party shall submit in writing its preliminary final offer
17 on all disputed issues to the petitioning party and the commission. If a petition is
18 filed jointly, both parties shall exchange their preliminary final offers in writing and
19 submit copies to the commission at the time the petition is filed.

20 **SECTION 2670.** 111.70 (4) (cm) 6. am. of the statutes is amended to read:

21 111.70 (4) (cm) 6. am. Upon receipt of a petition to initiate arbitration, the
22 commission shall make an investigation, with or without a formal hearing, to
23 determine whether arbitration should be commenced. If in determining whether an
24 impasse exists the commission finds that the procedures set forth in this paragraph
25 have not been complied with and such compliance would tend to result in a

1 settlement, it may order such compliance before ordering arbitration. The validity
2 of any arbitration award or collective bargaining agreement shall not be affected by
3 failure to comply with such procedures. Prior to the close of the investigation each
4 party shall submit in writing to the commission its single final offer containing its
5 final proposals on all issues in dispute that are subject to interest arbitration under
6 this subdivision ~~or under subd. 5s. in collective bargaining units to which subd. 5s.~~
7 ~~applies.~~ If a party fails to submit a single, ultimate final offer, the commission shall
8 close the investigation based on the last written position of the party. ~~The municipal~~
9 ~~employer may not submit a qualified economic offer under subd. 5s. after the close~~
10 ~~of the investigation.~~ Such final offers may include only mandatory subjects of
11 bargaining, except that a permissive subject of bargaining may be included by a
12 party if the other party does not object and shall then be treated as a mandatory
13 subject. No later than such time, the parties shall also submit to the commission a
14 stipulation, in writing, with respect to all matters which are agreed upon for
15 inclusion in the new or amended collective bargaining agreement. The commission,
16 after receiving a report from its investigator and determining that arbitration should
17 be commenced, shall issue an order requiring arbitration and immediately submit
18 to the parties a list of 7 arbitrators. Upon receipt of such list, the parties shall
19 alternately strike names until a single name is left, who shall be appointed as
20 arbitrator. The petitioning party shall notify the commission in writing of the
21 identity of the arbitrator selected. Upon receipt of such notice, the commission shall
22 formally appoint the arbitrator and submit to him or her the final offers of the
23 parties. The final offers shall be considered public documents and shall be available
24 from the commission. In lieu of a single arbitrator and upon request of both parties,
25 the commission shall appoint a tripartite arbitration panel consisting of one member

1 selected by each of the parties and a neutral person designated by the commission
2 who shall serve as a chairperson. An arbitration panel has the same powers and
3 duties as provided in this section for any other appointed arbitrator, and all
4 arbitration decisions by such panel shall be determined by majority vote. In lieu of
5 selection of the arbitrator by the parties and upon request of both parties, the
6 commission shall establish a procedure for randomly selecting names of arbitrators.
7 Under the procedure, the commission shall submit a list of 7 arbitrators to the
8 parties. Each party shall strike one name from the list. From the remaining 5
9 names, the commission shall randomly appoint an arbitrator. Unless both parties
10 to an arbitration proceeding otherwise agree in writing, every individual whose
11 name is submitted by the commission for appointment as an arbitrator shall be a
12 resident of this state at the time of submission and every individual who is
13 designated as an arbitration panel chairperson shall be a resident of this state at the
14 time of designation.

15 **SECTION 2674.** 111.70 (4) (cm) 8m. a. and c. of the statutes are consolidated,
16 renumbered 111.70 (4) (cm) 8m. and amended to read:

17 111.70 (4) (cm) 8m. "Term of agreement; reopening of negotiations." Except for
18 the initial collective bargaining agreement between the parties and, except as the
19 parties otherwise agree, every collective bargaining agreement covering municipal
20 employees subject to this paragraph ~~other than school district professional~~
21 ~~employees shall be for a term of 2 years. No, but in no case may a collective~~
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1 agreement, unless both parties agree to such a provision. The requirement for
2 agreement by both parties does not apply to a provision for reopening of negotiations
3 with respect to any portion of an agreement that is declared invalid by a court or
4 administrative agency or rendered invalid by the enactment of a law or promulgation
5 of a federal regulation.

6 **SECTION 2675.** 111.70 (4) (cm) 8m. b. of the statutes is repealed.

7 **SECTION 2676.** 111.70 (4) (cm) 8p. of the statutes is repealed.

8 **SECTION 2677.** 111.70 (4) (cm) 8s. of the statutes is repealed.

9 **SECTION 2678.** 111.70 (4) (cn) of the statutes is repealed.

10 **SECTION 2679.** 111.70 (4) (d) 2. a. of the statutes is amended to read:

11 111.70 (4) (d) 2. a. The commission shall determine the appropriate collective
12 bargaining unit for the purpose of collective bargaining and shall whenever possible,
13 unless otherwise required under this subchapter, avoid fragmentation by
14 maintaining as few collective bargaining units as practicable in keeping with the size
15 of the total municipal work force. In making such a determination, the commission
16 may decide whether, in a particular case, the municipal employees in the same or
17 several departments, divisions, institutions, crafts, professions, or other
18 occupational groupings constitute a collective bargaining unit. Before making its
19 determination, the commission may provide an opportunity for the municipal
20 employees concerned to determine, by secret ballot, whether or not they desire to be
21 established as a separate collective bargaining unit. ~~The commission shall not~~
22 ~~decide, however, that any group of municipal employees constitutes an appropriate~~
23 ~~collective bargaining unit if the group includes both municipal employees who are~~
24 ~~school district professional employees and municipal employees who are not school~~
25 ~~district professional employees.~~ The commission shall not decide, however, that any

1 other group of municipal employees constitutes an appropriate collective bargaining
2 unit if the group includes both professional employees and nonprofessional
3 employees, unless a majority of the professional employees vote for inclusion in the
4 unit. The commission shall not decide that any group of municipal employees
5 constitutes an appropriate collective bargaining unit if the group includes both craft
6 employees and noncraft employees unless a majority of the craft employees vote for
7 inclusion in the unit. The commission shall place the professional employees who are
8 assigned to perform any services at a charter school, as defined in s. 115.001 (1), in
9 a separate collective bargaining unit from a unit that includes any other professional
10 employees whenever at least 30% of those professional employees request an election
11 to be held to determine that issue and a majority of the professional employees at the
12 charter school who cast votes in the election decide to be represented in a separate
13 collective bargaining unit. Any vote taken under this subsection shall be by secret
14 ballot.”.

15 **3.** Page 1237, line 5: after that line insert:

16 “**SECTION 2718.** 118.245 of the statutes is repealed.”.

17 **4.** Page 1656, line 10: after that line insert:

18 “(1k) **QUALIFIED ECONOMIC OFFERS.** The treatment of section 111.70 (1) (b), (dm),
19 (fm), and (nc) and (4) (cm) 5s., 6. a. and am., 8m. a., b., and c., 8p., and 8s., (cn), and
20 (d) 2. a. of the statutes first applies to petitions for arbitration that relate to collective
21 bargaining agreements that cover periods beginning on or after July 1, 2007, and
22 that are filed under section 111.70 (4) (cm) 6. of the statutes, as affected by this act,
23 on the effective date of this subsection.”.

24 (END)